

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Progeny LMS, LLC)	WT Docket No. 11-49
)	
Petition for Waiver of the Rules and Request for)	
Expedited Treatment)	
)	

To: The Commission

**REPLY COMMENTS OF CELLNET TECHNOLOGY, INC.,
A LANDIS+GYR COMPANY**

Cellnet Technology, Inc. (“Cellnet”), a Landis+Gyr company, (“L+G”)¹ submits these reply comments with regard to the Petition for Waiver (“Waiver Request”) filed by Progeny LMS, LLC (“Progeny”) in the above-referenced proceeding. Progeny, a licensee in the Multilateration-Location and Monitoring Service (“M-LMS”), seeks waivers on an expedited basis of Commission rules that govern M-LMS operations in the 902-928 MHz band, a band which is shared with millions of unlicensed Part 15 devices. L+G generally supports the

¹ L+G is a leading provider of integrated energy management solutions tailored to energy company needs. With a global presence and a reputation for quality and innovation, L+G is unique in its ability to deliver true end-to-end advanced metering solutions. Using a combination of Part 101 Multiple Address System licenses held by its subsidiary Cellnet Technology, Inc. and unlicensed spread spectrum Part 15 devices, L+G has deployed a low-cost, private internal telemetry services network that allows it to transmit and receive data for the remote monitoring and control of devices, primarily utility meters. Because L+G extensively utilizes the 902-928 MHz band for its unlicensed local area network, connecting the endpoint (meter) devices to its private backbone network, L+G has a wealth of first-hand experience in the successful operation of devices sharing the 902-928 MHz spectrum band and a significant interest in this proceeding.

comments filed on the waiver by Itron, Inc. in urging the Commission to proceed cautiously in considering this or any future requests for waiver by M-LMS licensees.²

As the Commission and Progeny are well aware, the 902-928 MHz band has been a fertile proving ground for an enormous number of different types of products, ranging in nature from hugely successful consumer products like cordless telephones, baby monitors, wireless audio and video equipment, and home security systems, to medical implant products, to devices that have been integrated into critical infrastructure operations involved in the nation's energy, transportation and utility industries. This band also has been used for RFID products, fork lift and crane control systems, and for the provision of wireless broadband connectivity.³ The number of Part 15 devices operating in the band today likely is in the hundreds of millions.

Indeed, the Commission has recognized the importance of unlicensed Part 15 operations in the 902-928 MHz band, and the currently effective M-LMS rules are designed to foster the co-existence of M-LMS systems with Part 15 devices and other users of the band.⁴ Because a waiver that potentially increases the likelihood of interference to Part 15 users would undermine

² *Comments of Itron, Inc.*, WT Docket No. 11-49, March 25, 2011.

³ As long ago as 1995, when the FCC was considering rules for the use of this band by licensed automatic vehicle monitoring systems, the FCC estimated the number of unlicensed devices operating pursuant to Part 15 then to be in excess of 4 Million. *See Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Report and Order, 10 FCC Rcd 4695, 4712 (1995) (“1995 AVMS Report and Order”). Since that time, a number of changes have been made in the rules governing the use of this band in order to further encourage the use of advanced technologies and the development of unique and innovative devices and uses. *See e.g., Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices*, Second Report and Order, 17 FCC Rcd 10755 (2002);

⁴ *1995 AVMS Report and Order* ¶¶ 8-12.

this balance, L+G agrees with Itron, Inc. that the Commission must weigh heavily any impact that Progeny's proposed waivers would have on Part 15 users in determining whether such waivers should be granted. Caution is particularly appropriate since there already is a pending rulemaking in WT Docket No. 06-49 to modify the M-LMS rules.⁵ Indeed, granting the requested waivers in advance of the pending rulemaking would unnecessarily create regulatory uncertainty for Part 15 users while at the same time appearing to prejudge the issues to be addressed in the broader proceeding.

In addition to the several factors of concern with Progeny's proposed waivers that Itron has identified in its Comments, L+G notes one additional concern: Progeny has not provided sufficient detail as to the effective occupancy of the band by M-LMS licensees over any particular period of time that will result from its proposed broadcast-only technology. As a result, Part 15 users cannot be comfortable that, with the waiver, Progeny's use will not have a negative impact on the band's effective availability for others. Specifically, if Progeny proposes to broadcast in the 902-928 MHz every few milliseconds, with virtually no "quiet" time between broadcasts in which Part 15 devices can complete their own exchange of data without interference (for example, for remote meter reading), granting the waiver would be entirely inconsistent with the well-balanced compromises crafted under the Commission's rules. The Commission therefore at the least should require Progeny to support the requested waivers with more data to address the issues raised by L+G and Itron before acting on the waiver requests. The Commission also should reaffirm that Progeny must comply with Section 90.353(d) of the

⁵ *In the Matter of Amendment of the Commission's Part 90 Rules in the 904-909.75 and 919.75-928 MHz Bands*, Notice of Proposed Rulemaking, WT Docket No. 06-49, 21 FCC Rcd 2809 (2006) ("NPRM").

M-LMS rules and “demonstrate through actual field tests that their systems do not cause unacceptable levels of interference to [unlicensed] part 15 devices.”⁶

Waivers of the rules governing M-LMS licensees’ use of this heavily shared band should not be considered without significant scrutiny of the impact that any operations might have on all current and future occupants of this band. L+G supports the concerns raised by Itron in its comments and urges that the Commission proceed carefully in light of these concerns before any waivers are granted.

Respectfully submitted,

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⁶ 47 C.F.R. § 90.353(d) (2010).